

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

THE STATE OF LOUISIANA,
By and through its Attorney General,
JEFF LANDRY, et al., PLAINTIFFS,

v.

XAVIER BECERRA, in his official
capacity as Secretary of Health and
Human Services; et al.,
DEFENDANTS.

No. 3:21-cv-04370-TAD-KDM

**PLAINTIFF SANDY BRICK'S STATEMENT OF UNDISPUTED FACTS IN
SUPPORT OF HER CROSS-MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Civil Rule 56.1, Plaintiff hereby submits the following
statement of material facts of which there is no genuine dispute:

1. A July 14, 2021, OHS webinar on “staff wellness” included this statement by OHS Deputy Director Ann Linehan: “The final thing that we want to say, we want to recognize, . . . that we understand receiving the vaccination is a personal decision. We want to make sure everything that you’re doing everything you can to make sure that your staff and families have reliable information and resources to help them make this decision and in consultation with their doctor.” *Mental Health*

and Staff Wellness: Emotionally Strong Together, HHS/OHS webinar, July 14, 2021.¹

2. On July 23, 2021, the White House acknowledged that imposing vaccine mandates is “not the role of the federal government; that is the role that institutions, private-sector entities, and others may take [W]e’re going to continue to work in partnership to fight misinformation. And we’re going to continue to advocate and work in partnership with local officials and—and trusted voices to get the word out.” Jen Psaki, White House Press Briefing (July 23, 2021).²

3. Yet, on September 9, 2021, President Biden reversed course, announcing “a new plan to require more Americans to be vaccinated, to combat those blocking public health.” *Remarks by President Biden on Fighting the COVID-19 Pandemic*, White House (Sept. 9, 2021).³ He stressed that: “we must increase vaccinations among the unvaccinated with new vaccination requirements.” *Id.* He noted: “The bottom line: We’re going to protect vaccinated workers from unvaccinated co-workers.” *Id.*

4. The President indicated that he was “frustrated with the nearly 80 million Americans who are still not vaccinated” *id.*, claimed that unvaccinated persons “can cause a lot of damage” *id.*, and noted that he would not allow the unvaccinated, for

¹ eclkc.ohs.acf.hhs.gov/video/mental-health-staff-wellnesseemotionally-strong-together.

² <https://www.whitehouse.gov/briefing-room/press-briefings/2021/07/23/press-briefing-by-press-secretary-jen-psaki-july-23-2021/>.

³ <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/09/remarks-by-president-biden-on-fighting-the-covid-19-pandemic-3/>.

whom his “patience is wearing thin,” *id.*, “to stand in the way of protecting the large majority of Americans who have done their part” *Id.*

5. The President announced that the federal government would issue five new COVID-19 vaccine mandates: an emergency temporary standard from the Occupational Safety & Health Administration (“OSHA”) on all companies with 100 or more employees; an emergency rule from the Centers for Medicare & Medicaid Services (“CMS”) for all healthcare employees working at facilities that accept Medicare or Medicaid patients; an executive order for all executive branch federal employees; an executive order for employees of federal contractors; and this Head Start Rule. AR 0001, 01057, 01211, 01284, 01288.

6. The same day, the director of the Office of Head Start at HHS sent a letter to Head Start providers introducing “a new requirement for Head Start programs. All Head Start employees must be vaccinated against COVID-19.” The letter promised “rulemaking to implement this policy.”⁴

7. On Monday, November 30, 2021, the Office of Head Start (“OHS”) and Administration for Children & Families (“ACF”) and HHS published an interim final rule imposing a vaccination mandate on all staff, student-facing contractors, and all volunteers to have received the second shot by January 31, 2022, and a universal mask mandate on all Head Start participants over age two. The Rule stated it would be immediately implemented without notice-and-comment. AR 00001, 00008; 86 Fed. Reg. 68,052, 68,059.

⁴ Eclkc.ohs.acf.hhs.gov/blog/vaccinating-head-start-staff-letter-director.

8. The Rule cites 42 U.S.C. § 9836a(a)(1)(C)–(E) as the basis for Defendants’ statutory authority. AR 00001; 86 Fed. Reg. 68,052.

9. The Rule departed from President Biden’s September 9, 2021, plan in at least two major ways: President Biden had said nothing about mandating vaccines for all Head Start volunteers—nearly 1.1 million people—and had made no mention of requiring program participants to wear masks.

10. Plaintiff works as a teacher for a school serving federal Head Start students in Kinder, Louisiana. Decl. of Sandy Brick (“Brick Decl.”) ¶ 3.

11. Subsequent to the Rule’s publication, and only because of the Rule, Plaintiff’s employing Head Start agency informed her that she must either submit proof of vaccination or have an exemption approved by January 28, 2022. Brick Decl. ¶ 4. Her employer also warned that if she failed to meet either the vaccination requirement or receive an exemption, she would be subject to termination. Brick Decl. ¶ 4.

12. Plaintiff does not wish to take the COVID-19 vaccine and filed this lawsuit on December 22, 2021, to protect her job. Brick Decl. ¶ 6.

13. Shortly after federal courts enjoined the Head Start federal vaccine mandate in Louisiana, Plaintiff’s employer informed her that the vaccination policy was not being enforced because a court had blocked the federal Head Start vaccine mandate from going into effect. Brick Decl. ¶ 7. Since then, her employer has not required staff to take the COVID-19 vaccine or required them to wear masks. Brick Decl. ¶ 7.

Dated: August 5, 2022

/s/ Sarah Harbison

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